

Lewis County Planning Commission **Workshop**

Lewis County Courthouse
Commissioners' Hearing Room – 2nd Floor
351 NW North St – Chehalis, WA

July 29, 2014 - Meeting Notes

Planning Commissioners Present: Bob Guenther, Clint Brown, Mike Mahoney, Richard Tausch

Planning Commissioners Excused: Sue Rosbach, Arny Davis, Russ Prior

Staff Present: Glenn Carter, Lee Napier, Patrick Babineau, Pat Anderson

Consultant: John Kliem, Creative Community Solutions

Others Present: Please see sign in sheet

Handouts/Materials Used:

- Agenda
- Meeting notes from July 8, 2014
- Memo from Patrick Babineau
- Medical Marijuana Meets Zoning
- Spokesman-Review newspaper article
- BOTECH Whitepaper
- Chapter 8.60 LCC Collective Medicinal Cannabis Gardens
- Ordinance 1236 Collective Medicinal Cannabis Gardens
- Kitsap County Draft Ordinance
- List of Applicants

1. Call to Order

Chair Mahoney called the meeting to order at 6:00 p.m. The Commissioners introduced themselves. Chair Mahoney informed the audience that the rezone workshop that was originally scheduled for tonight had been postponed and the only item on the agenda was the marijuana land use issue.

2. Approval of Agenda

There were no changes and the agenda was approved.

3. Approval of Meeting Notes from July 8, 2014

There were no changes and the meeting notes were approved as presented.

4. Old Business

A. 2nd workshop on Marijuana Land Use

Ms. Napier, Director of Community Development, stated the memo to the Commissioners explained tonight's agenda. She asked if there were any questions; there were not and she introduced John Kliem, Creative Community Solutions.

Mr. Kliem stated at the last meeting the Commissioners decided to look at moving forward with creating a series of land use regulations that would deal with the production, processing and retailing of

recreational marijuana in Lewis County. The legal ramifications of I-502 were discussed last month and the Washington State laws. Tonight the focus of discussion will be what kind of path to take in addressing issues that would normally be addressed in any land use issues.

There are three separate licenses that are required under the Liquor Control Board (LCB). There is producer's license; a processor's license and a retail license. A producer may have a processor's license but a retailer's license must be separate from the others. That does not mean they cannot share a location but the ownership must be separate.

Mr. Kliem had a series of cards he displayed on the story board that listed items of concern or consideration for this land use issue. These included:

- Location
- Size Limits
- Relationship to other Development
- Site Development Standards
- Environmental Concerns
- Impacts to Facilities and Services
- Traffic and Circulation
- Approval Process

Mr. Kliem stated he would collect information from the Planning Commissioners on the various items and add to the board.

Chair Mahoney asked if there was a general feeling as to whether the production of marijuana would be indoors or outdoors. Mr. Kliem stated it appears they would be an indoor grow, either in a greenhouse or enclosed building because there is a high demand for the product at this time and a crop that is tended inside will produce about 6 crops a year. Outside grows would produce 1-2 crops a year.

Chair Mahoney stated the state requires strict security and that would be much easier with an indoor grow than an outdoor grow. It appears that the larger grows will be in a building and in our agricultural resource land zoning those types of buildings are not considered ag buildings. Greenhouses would have other uses. He would not like to see a large commercial/industrial building in the agricultural areas. If there ceases to be marijuana grown in that building there would not be any other ag application for the building. Processing belongs in a commercial/industrial zone and retail should be in a retail area. Large indoor production might be best in an industrial area.

Mr. Kliem stated there are three tiers that are permitted for producing. Tier 1 is less than 2000 square feet; Tier 2 is 2000 square feet to 10,000 square feet; and Tier 3 is 10,000 square feet to 30,000 square feet. There are producers throughout all three tiers; some may be quite small; some may focus on medical marijuana.

Commissioner Guenther understands that in the entire state of Washington there will only be 2 million square feet allowed for producing, which is approximately 46 acres. The reason we are addressing this today is if the law is changed to allow the production of marijuana in Lewis County then there will be a plan to accommodate that product. He wanted it to be clear that the Planning Commission is not advocating for marijuana producers, etc. but it is acting if the law is forced upon Lewis County.

Mr. Kliem stated regarding the 2 million acres, there is no allocation to a specific county. What he did discover is the LCB has only permitted 400,000 square feet of that 2 million.

Commissioner Guenther stated indoor operations were discussed at the last meeting. He would like to see at least a 10' high fence around an indoor operation; an entrance and an exit; and consider very strongly the safety of law enforcement officers. Outdoor grows would make it very difficult for law enforcement to make sure they are all operating properly.

Mr. Kleim asked if there are types of areas in the county where they should go. Commissioner Brown stated other jurisdictions have looked at this and because of the concerns addressed by Commissioner Guenther and restrictions, he felt that limiting it to an industrial area eliminates the close proximity to schools, churches, residential areas, etc. but it also addresses the issue of water usage, sufficient power and emergency services.

Commissioner Guenther stated it was his opinion that when the potential profit is looked at the production facilities should go in an industrial site. It would also be safer for law enforcement.

Mr. Kliem asked about concerns for site developments – odors, lighting, etc. Chair Mahoney stated the industrial site already has road development, sewer, water, police and fire protection. The environmental concerns become concentrated within the building or the site. He was referring to the production/processing sites, not retail sites.

Commissioner Guenther stated the Department of Ecology might be involved in the odor issue. A study should be done to see what the consequences of those grows are going to be on the citizens surrounding the industrial park or wherever the grow is located. The County should have an analysis done before it permits anything.

Mr. Kliem stated there are a variety of scrubbers available and that is something that could be included in the zoning ordinance.

Commissioner Brown stated there will be a number of public nuisance issues associated with this. He read from the code for cannabis medicinal gardens. One of the requirements is 'the facility must be contained inside a building compliant with county codes...equipped with an air filtration system that prevents the release of cannabis pollens, pollen fumes and odors to the outside...requires a sprinkler and fire suppression system....and the building shall be locked at all times and inaccessible by the public.' Commissioner Brown stated those seem to be reasonable requirements to be put on any potential growers.

Mr. Kliem asked if the recreational marijuana should go through the permitting process or if it should be a special use or conditional use that would go before the hearing examiner.

Commissioner Guenther thought it should go through a clear and concise process.

Mr. Kliem stated that Chairman Mahoney had indicated doing something different with Tier 1 production, which is 2000 square feet or less.

Chairman Mahoney stated that he understood that state law allows a small quantity of plants for personal use and cultivation within the home, for medical marijuana and it is not a commercial grow. The Tier 1 is a commercial operation and less than 2000 square feet is a small area. He could envision that type of building for other uses if marijuana production should cease there. The 30,000 square foot building does not belong in the same type of location. He could see different regulations based on square footage, especially for a building. He asked if the tiers are for the entire operation or just for growing.

Mr. Kliem stated that is just for growing. There is no limitation on size or numbers for processors.

Chairman Mahoney stated a 10,000 square foot building is for growing but there may be other buildings, parking, there could be a home on the property. Tiers 2 and 3 are big enough that they should be a stand-alone operation and those belong in an industrial setting rather than a farm setting.

Mr. Kliem asked Chairman Mahoney if he thought a Tier 1 could go on a 5 acre farm.

Commissioner Brown stated having different regulations for the different tiers would create all sorts of issues. He believed all three tiers should abide by the same rules.

Commissioner Guenther agreed with that. He stated if Tier 1s are allowed to go all over the county there will be problems. He stated criteria needs to be established for all tiers to be within a certain number of miles for law enforcement.

Chairman Mahoney asked the Commissioners if one criterion is that there will be no outdoor commercial grows – they will all be confined in a building.

There was consensus among the Commissioners present.

Chairman Mahoney stated there are a lot of industrial areas throughout the county and, for the safety of the owners and growers and the citizens, keeping the production in an industrial area seemed like a good argument.

Commissioner Guenther asked Mr. Kliem what the estimated revenue would be for a Tier 1 grower because if it is produced a half million dollars of product a year that is an industrial project. Mr. Kliem stated there will be good farmers and bad farmers and how well someone operates their business is difficult to tell. Most of the applications are in the Tier 2 and Tier 3, so most producers will be large. He will try to find that information.

Commissioner Brown wants the buildings to meet all county building codes and have fire suppression and sprinkler systems. He would like there to be limitations about how close grow operations can be to one another.

Chairman Mahoney would not like to see several small buildings clustered together but one larger one to keep the smaller buildings from having to meet some of the codes of a larger one. He would like to have all of the regulations apply to all Tiers – all must have fire suppression and sprinklers, all must have ventilation, etc. Chair Mahoney believed the environmental, facilities and traffic issues would be taken care of within an industrial area and with codes and laws that are already in place.

Commissioner Brown asked if all employees of producers, processors or retailers would need to have a background check. That is already required of the owners. Mr. Kliem stated that he was not aware of anything in WAC 314-55 regarding the criminal history of employees but he had seen ordinances that require employees to be felony-free.

Commissioner Brown stated he would like the Commission to look at how to regulate who is working in these facilities.

Commissioner Tausch stated his concern was a drain on resources. If water is used from a well what affect does that have on the water table in that area. How would something like that be analyzed or supervised? Regarding power, he would like to see a requirement where they cannot use a generator because that involves storing fuel and the potential damage from spills, etc. He would like to see the power requirement come from the grid. The sewer system should be a sewage treatment plant of some sort.

Chairman Mahoney stated that was the reason for suggesting an industrial park. If a dairy wanted to build a cheese plant and they needed a certain amount of water and there was a certain amount of effluent from that plant part of the permitting process would be to negotiate that with the providers. The same thing would be true in this case. If a building needs 10,000 gallons of water a day, part of the permitting process would be in proving there is an agreement and availability for that amount of water. A lot of this type thing is already spelled out in the county's ordinances.

Commissioner Brown stated he would like distances from schools, residential areas, churches, home day care centers, etc. to be spelled out in the ordinance even though most industrial parks already are separated from those areas.

Chairman Mahoney asked if anyone in the audience would like to comment.

Randy Lentz, Chehalis, has applied for a Tier 2 producer's license. He thought the industrial park for the Tier 3 operation was warranted because those would be very large buildings. He stated there are several different methods of growing cannabis. There are advantages to growing in a greenhouse because the air can be filtered and a sterile environment can be developed to minimize the infestation of insects and diseases. The energy to grow indoors is huge; it will draw a lot of power off the grid. That's why growing outdoors, even if there are only 2 harvests a year, would be advantageous because there would be less of an impact on power and it would save a considerable amount on the production end. The air can be filtered in an outdoor grow, and he agreed that filtering is necessary.

Mr. Lentz stated he has property and would like to use his property for a home-based business. It will be a huge expense for him to get this business going and each new rule initiates another expense.

Cania Lee, Ethel, has been a resident of Lewis County for 10 years where he grows Chinese vegetables. He is a second generation farmer and he is very proud of what he grows to provide for his family and feed the community. He is doing all he can to preserve his land and he is concerned about the environment. A farmer has very little waste – everything is useable to a farmer. These things must be considered. The Liquor Control Board has done its research and its biggest concern is environmental impacts: how much energy will be used; how much run-off will there be; and no one has addressed that run-off is gold to a farmer. The nutrients are not run off and wasted. Farmers regulate themselves to

preserve what they have for the next generation. There are farmers that want to get into this industry. He doesn't want to burden the sheriff's department, either, but he lives here and wants to stay here. Mr. Lee has a 60-acre farm and is far enough away from his neighbors that it should not be a concern. The Liquor Control Board has also stated that if the nearest neighbor is within 400 feet there must be consent from that neighbor.

Regarding odors, Mr. Lee stated that odors from dairy farms and chicken farms are much worse than any odors from marijuana production. If odors are a concern, then those other odor sources should be looked at, too.

Lisa Montanaro, Chehalis, stated that nearly half the population voted in favor of recreational marijuana and she thought the associated businesses would create hundreds of businesses, thousands of jobs and millions of dollars in profit. She said there would also be lab testing facilities, hydroponic stores, fencing. She had to cancel a fencing contract because she could not get permitting through Lewis County. There is a black market for marijuana in Lewis County and permitting marijuana would stop that.

Ms. Montanaro is in support of recreational marijuana and she thought the county leaders should be, also.

Chairman Mahoney thanked the speakers for their input. He stated that just because someone wanted to have a small business did not mean that it would not be regulated. If marijuana will be allowed to be licensed and grown in Lewis County it will be heavily regulated. There will be no little back-yard operations that will skate by. The Department of Ecology will be involved in any water usage and if a grower doesn't have water rights, he'll need to get in line and wait for them. Marijuana is a controversial crop and if the county laws are changed to allow it to be grown, Chair Mahoney was quite sure that the regulations will be onerous.

Chairman Mahoney stated the Planning Commission is approaching this as if the county had been told that it has to allow these operations. We want something that is fair to the people that want to participate in those businesses and still address the concerns of the more than half of the people who did not vote for this. He stated that he could not build a dairy anywhere he wants and the same is true of any crop. All of these things are what any potential grower is going to have to deal with and it is not what we are here for. We are approaching it in a way that if it is legal how would we want the regulations written that protect both sides of the issue.

Commissioner Brown reminded the audience that the Planning Commission is an advisory board and only makes recommendations to the Board of County Commissioners, who make the final decisions.

Chairman Mahoney asked Mr. Kliem if there was anything else he wanted to bring forward. Mr. Kliem asked if the Commission had given any thought to the retail portion of marijuana licensing.

Chairman Mahoney stated that within the unincorporated areas of the county there are areas designated for retail sales. He thought marijuana sales should be kept in the retail areas of the county. That is where the customer base is going to be and he saw no point in having a retail operation away from the people. He thought perhaps the liquor stores could sell it if there will be restrictions on locating near schools, churches, libraries, etc. Cities will do their own regulations.

Commissioner Guenther thought liquor stores would be appropriate and he didn't think there needed to be more than three or four in the outlying areas of the county.

Mr. Kliem stated there are four allowed outside of Centralia and Chehalis. He stated there was a lottery held for Centralia and Chehalis but the four slots for the rest of the county are still available.

Ms. Napier stated there will be a total of seven retail stores allowed in the entire county: two in Centralia, one in Chehalis, and four anywhere else in the county.

Mr. Carter stated that the county is doing zoning for the long term and regarding the availability of licenses that could change. Ten years from now there could be many more issued. We should not assume that there will always be only four available.

Commissioner Brown thought there should be the same requirements for retail stores as there are for growers, such as security. They should not be in close proximity to schools, and he didn't think they should be in close proximity to liquor stores, either.

Chairman Mahoney asked if the state limited the size of retail operations, and can it sell other things. Mr. Kliem stated it can sell paraphernalia and edible products made with marijuana, and there is no sampling or handling of the product on the premises.

Mr. Kliem stated he would work with Ms. Napier and Mr. Babineau and study the issues and concerns that were brought up tonight. There could be a draft ordinance ready for discussion at the next meeting.

5. New Business

There was no new business.

6. Calendar

The next meeting will be on September 23, 2014, the 3rd workshop on marijuana land use.

7. Good of the Order

Chairman Mahoney thanked the people who spoke at the meeting. He asked if anyone else wanted to speak.

Mr. Lentz stated he understood the Commissioners thinking about putting the growers and processors in an industrial area; however limiting the ability of an independent to profit from I-502 is devastating. By making it so difficult for the applicants to get their licenses to grow is leaving the door open to the people who are doing it illegally. Part of the purpose of regulating marijuana, as he understands it, is the product is tested for heavy metals, pesticides, herbicides, fungus, and it is tested for the THC and CBD levels. It is detrimental to holding it up so it can be regulated. It will be safer for the public to purchase product that has been tested. People growing it illegally do not have those concerns. He also stated that pot is everywhere and by legalizing, taxing and regulating it that revenue can be used to tell the people to use restraint and be responsible. He wants his kids to be safe and he didn't think that a place that allows illegal marijuana is a safe place.

Commissioner Guenther stated that he would tell his kids and grandkids that if they want a job in the future, in building, construction and the trades, they will be subject to a drug test. If someone wants to smoke marijuana then maybe he doesn't want a job.

8. Adjourn

There was no other business before the Planning Commission and adjournment was at 7:40.